

Court of Appeals, State of Michigan

ORDER

Jeff Cusimano v John Doe a/k/a Ronald R Rudnik

Docket No. 260037

LC No. 04-422644-AV

Michael J. Talbot
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

Pursuant to MCR 7.205(D)(2), the Court orders that the December 13, 2004, order of the Wayne County Circuit Court, which vacated the judgments of possession entered by the 36th District Court, is REVERSED. Because defendant did not offer any valid defense to plaintiff's claim for possession of the property at the district court hearing, the district court properly entered the judgments of possession. See MCR 4.201. Although defendant claimed in the circuit court appellate proceeding that the default entered against him in plaintiff's previous quiet title action was based on false information, defendant failed to file an appeal from this prior proceeding, and thus, could not collaterally attack plaintiff's title to the property. See *In re Waite*, 188 Mich App 189, 197; 468 NW2d 912 (1991). Moreover, the circuit court's vacating of the judgments was clearly without any sound legal basis and was improper. Accordingly, the July 19, 2004, judgments of possession in case numbers 04-319873, 04-319869, and 04-319868, are REINSTATED, and the matter is REMANDED to the 36th District Court for further proceedings not inconsistent with this order.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAY 25 2005

Date

Sandra Schultz Mengel
Chief Clerk